

Response to Office Action Mailed October 23, 2002

A. Claims In The Case

Claims 95-101, 103-106, 141-146, 148-152, 156, 157, 189, and 190 have been rejected. Claims 102, 147, 154, 155, 158 and 191-199 have been objected. Claims 95-106, 141-152, 154-159, 161, 163-171, 178-182 and 184-202 are pending. Claims 95, 106 and 196 have been amended.

B. The Claims Are Not Obvious Over Buazza In View Of Baskerville Pursuant to 35 U.S.C. § 103(a)

The Examiner rejected claims 95-99, 103-106, 148-152, 156 and 189-190 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,415,816 to Buazza et al. (hereinafter Buazza'816) in view of U.S. Patent No. 4,576,766 to Baskerville et al. (hereinafter "Baskerville"). Applicant respectfully disagrees with these rejections.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner et al.*, 379 F.2d 1011, 154 USPQ 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP § 2143.03.

Applicant's amended independent claim 95 is directed to a system that describes a combination of features including, but not limited to,

a photoinitiator that initiates curing of the monomer in response to being exposed to activating light having a wavelength greater than 400 nm; and

a first light generator adapted to generate and direct activating light at a wavelength greater than 400 nm toward at least one of the mold members to cure the lens forming composition and to form the eyeglass lens during use.

Support for the amendment is found in Applicant's specification, which states:

"In an embodiment the above-described lens forming composition, where the light absorbing compound absorbs ultraviolet light, may be treated with activating light having a wavelength above about 380 nm to activate the photoinitiator. Preferably activating light having a wavelength substantially between about 380 nm to 490 nm is used. By using activating light above about 380 nm the darkening effect caused by the ultraviolet absorbing compounds may be avoided. The activating light may penetrate into the lens forming composition, initiating the polymerization reaction throughout the composition. A filter which blocks light having a wavelength that is substantially below about 380 nm may be used to prevent the ultraviolet absorbing compounds from darkening" (Specification, Page 160, lines 13-21).

The Examiner states, "Buazza as described above, teaches the light source to emit light at 300-400 nm. This anticipates the language of claim 95 which recites that the wavelength of the activating light is 'greater than about 400 nm [.]' This language does not preclude the wavelength of light to be slightly below 400 nm, which would fall in the range taught by Buazza" (Office Action, pages 12-13). Applicant submits that Buazza does not teach a light source emitting light having a wavelength greater than 400 nanometers. Buazza states,

"The lamps 40 generate an intensity at the lamp surface of approximately 4.0 to 7.0 mW/cm² of ultraviolet light having wavelength between 300 and 400 nm, which light is very uniformly distributed without any sharp discontinuities throughout the reaction process. Such bulbs are commercially available from Sylvania under the trade designation Sylvania Fluorescent (F158T/2052) or Sylvania Fluorescent (F258T350BL/18")GTE. As noted above, ultraviolet light having wavelengths between 300 and 400 nm is preferred because the photoinitiators according to the present invention, preferably, absorb most efficiently at this wavelength and the mold members 78, preferably, allow maximum transmission at this wavelength" (Column 14-15, lines 64-68 and lines 1-9, respectively).

Applicant submits that the combination of Buazza '816 and Baskerville do not appear to teach or suggest all the features of amended claim 95.

C. The Claims Are Not Obvious Over Buazza '816 In View Of Baskerville And In Further View of Costanza Pursuant to 35 U.S.C. § 103(a)

The Examiner rejected claims 100 and 151-152 under 35 U.S.C. § 103(a) as being unpatentable over Buazza '816 in view of Baskerville as applied to claims 95-99, 103-106, 148-152 and 156 above, and in further view of U.S. Patent No. 4,077,858 to Costanza et al. (hereinafter "Costanza"). Applicant respectfully disagrees with these rejections.

Applicant submits that claims 100 and 151-152, for at least the reasons set forth above, are patentable over the cited art.

D. The Claims Are Not Obvious Over Buazza '816 In View Of Baskerville And In Further View of Portney Pursuant to 35 U.S.C. § 103(a)

The Examiner rejected claims 101 and 157 under 35 U.S.C. § 103(a) as being unpatentable over Buazza '816 modified by Baskerville et al. as applied to claim 95-99, 103-106, 148-152, and 156 above, and in further view of U.S. Patent No. 4,842,782 to Portney et al. (hereinafter "Portney"). Applicant respectfully disagrees with these rejections.

Applicant submits that claims 101 and 157, for at least the reasons set forth above for, are patentable over the cited art.

E. The Claims Are Not Obvious Over Buazza '816 In View Of Baskerville And In Further View of Tarshiani Pursuant to 35 U.S.C. § 103(a)

The Examiner rejected claims 141-142 and 144-145, under 35 U.S.C. § 103(a) as being unpatentable over Buazza '816 in view of Baskerville as applied to claim 95-99, 103-106, 148-152, and 156 above, and in further view of U.S. Patent No. 5,422,046 to Tarshiani et al. (hereinafter "Tarshiani"). Applicant respectfully disagrees with these rejections.

Applicant submits that claims 141-142 and 144-145 for at least the reasons set forth, are patentable over the cited art.

F. The Claims Are Not Obvious Over Buazza '816 In View Of Baskerville And In Further View of Buazza '575 Pursuant to 35 U.S.C. § 103(a)

The Examiner rejected claims 141-145 under 35 U.S.C. § 103(a) as being unpatentable over Buazza '816 modified by Baskerville as applied to claims 95-99, 103-106, 148-152, and 156 above, and further in view of U.S. Patent No. 5,928,575 to Buazza (hereinafter "Buazza '575"). Applicant respectfully disagrees with these rejections.

Applicant submits that claims 141-145, for at least the reasons set forth above, are patentable over the cited art.

G. The Claims Are Not Obvious Over Buazza In View Of Baskerville And Tarshiani And In Further View of Coughanowr et al. Pursuant to 35 U.S.C. § 103(a)

The Examiner rejected claim 146 under 35 U.S.C. § 103(a) as being unpatentable over Buazza '816 in view of Baskerville and Tarshiani as applied to claims 95-99, 103-106, 148-152, and 156 above and in further view of Coughanowr et al. (Process Systems Analysis and

Control: 111-121 (1965); hereinafter "Coughanowr").

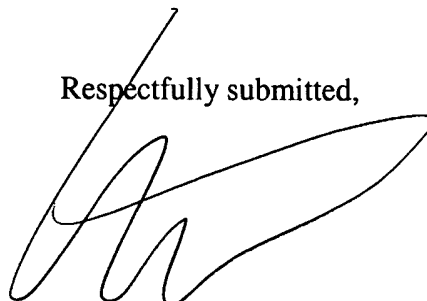
Applicant submits that claim 146 for at least the reasons set forth above is patentable over the cited art.

H. Summary

Based on the above, Applicant submits that all claims are in condition for allowance. Favorable reconsideration is respectfully requested.

If any extension of time is required, Applicant hereby requests the appropriate extension of time. If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5040-03206/EBM

Respectfully submitted,



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Strikethrough Version of the Amended Paragraphs

Paragraph beginning on page 123, line 13:

A preferred ultraviolet photoinitiator is bis-(2,4,6-dimethoxytrimethylbenzoyl)-(2,4,4-trimethyl-pentyl)phenyl-phosphine-oxide, commercially available from Ciba Additives in Tarrytown, New York under the trade name of Ciba®IRACURE®819 ("CGI-819"). The amount of CGI-819 present in a lens forming composition containing photochromic compounds preferably ranges from about 30 ppm by weight to about 2000 ppm by weight.

Strike-though Version of the Amended Claims

95. (twice amended) A system for making an ophthalmic eyeglass lens, comprising:

a first mold member having a casting face and a non-casting face;

a second mold member having a casting face and a non-casting face, the second mold member being adapted to be spaced apart from the first mold member during use such that the casting faces of the first mold member and the second mold member at least partially define a mold cavity;

a lens forming composition adapted to be disposed within the mold cavity during use, comprising:

a monomer that cures by exposure to activating light to form the eyeglass lens during use;

an ultraviolet light absorbing compound that substantially absorbs light having a wavelength below about 380 nm during use;

a photoinitiator that initiates curing of the monomer in response to being exposed to activating light having a wavelength greater than ~~about~~ 400 nm; and

a first light generator adapted to generate and direct activating light at a wavelength greater than ~~about~~ 400 nm toward at least one of the mold members to cure the lens forming composition and to form the eyeglass lens during use.

106. (amended) The system of claim 95 wherein the first light generator comprises a fluorescent light source adapted to emit light at a wavelength of ~~about~~greater than 385-400 nanometers to 490 nanometers.

196. (amended) The system of claim 95, wherein the light absorbing compound comprises a compound selected from the group consisting of bis(1,2,2,6,6)-pentamethyl-4-piperdiny)sebacate, poly-(oxy-1,2-ethanediyl), α -(3-(3-(2H-benzotriazol-2-yl)-5-(1,1-dimethylethyl)-4-hydroxyphenyl)-1-oxopropyl)- ω -hydroxy-, poly-(oxy-1,2-ethanediyl), α -(3-(3-(2H-benzotriazol-2-yl)-5-(1,1-dimethylethyl)-4-hydroxyphenyl)-1-oxopropyl)- ω -(3-(3-(2H-benzotriazol-2-yl)-5-1,1-dimethylethyl)-4-hydroxyphenyl)-1-oxopropoxy)poly(oxy-1,2-ethanediyl), 2-(2H benzotriazole-2-yl)4-(1,1,3,3 tetramethyl butyl)-phenol, 2-[4-((2-hydroxy-3-dodecyloxypropyl)-oxy)-2 hydroxyphenyl]-4,6-bis(2,4-dimethylphenyl)-1,3,5-triazine, 2-[4-((2-hydroxy-3-tridecyloxypropyl)-oxy)-2-hydroxyphenyl]-4,6-bis(2,4-dimethylphenyl)-1,3,5-triazine, or mixtures thereof.